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9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues  
12 Against:

Case No. *2012-100*

13 **AMY GADDIS**  
14 **PO Box 384**  
**Apple Valley, CA 92307**

**STATEMENT OF ISSUES**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in  
20 her official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
21 Consumer Affairs.

22 2. On or about January 5, 2011, the Board of Registered Nursing, Department of  
23 Consumer Affairs received an application for a registered nurse license by exam from Amy  
24 Gaddis (Respondent). On or about January 3, 2011, Respondent certified under penalty of  
25 perjury to the truthfulness of all statements, answers, and representations in the application. The  
26 Board denied the application on March 21, 2011.

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1 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when  
2 an order granting probation is made suspending the imposition of sentence, irrespective of a  
3 subsequent order under the provisions of Section 1203.4 of the Penal Code.

4 "...

5 "(3) (A) Done any act that if done by a licentiate of the business or profession in question,  
6 would be grounds for suspension or revocation of license.

7 "(B) The board may deny a license pursuant to this subdivision only if the crime or act is  
8 substantially related to the qualifications, functions, or duties of the business or profession for  
9 which application is made.

10 "(b) Notwithstanding any other provision of this code, no person shall be denied a license  
11 solely on the basis that he or she has been convicted of a felony if he or she has obtained a  
12 certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of  
13 Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has  
14 met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate  
15 the rehabilitation of a person when considering the denial of a license under subdivision (a) of  
16 Section 482."

17 7. Section 482 of the Code states:

18 "Each board under the provisions of this code shall develop criteria to evaluate the  
19 rehabilitation of a person when:

20 "(a) Considering the denial of a license by the board under Section 480; or

21 "(b) Considering suspension or revocation of a license under Section 490.

22 "Each board shall take into account all competent evidence of rehabilitation furnished by  
23 the applicant or licensee."

24 8. Section 2761 of the Code states:

25 "The board may take disciplinary action against a certified or licensed nurse or deny an  
26 application for a certificate or license for any of the following:

27 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

28 "...

1       "(f) Conviction of a felony or of any offense substantially related to the qualifications,  
2 functions, and duties of a registered nurse, in which event the record of the conviction shall be  
3 conclusive evidence thereof."

4       9.     Section 2762 of the Code states:

5       "In addition to other acts constituting unprofessional conduct within the meaning of this  
6 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this  
7 chapter to do any of the following:

8       "...

9       "(b) Use any controlled substance as defined in Division 10 (commencing with Section  
10 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in  
11 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to  
12 himself or herself, any other person, or the public or to the extent that such use impairs his or her  
13 ability to conduct with safety to the public the practice authorized by his or her license.

14       "(c) Be convicted of a criminal offense involving the prescription, consumption, or  
15 self-administration of any of the substances described in subdivisions (a) and (b) of this section,  
16 or the possession of, or falsification of a record pertaining to, the substances described in  
17 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence  
18 thereof."

#### 19                                   REGULATORY PROVISIONS

20       10.    California Code of Regulations, title 16, section 1444, states:

21       "A conviction or act shall be considered to be substantially related to the qualifications,  
22 functions or duties of a registered nurse if to a substantial degree it evidences the present or  
23 potential unfitness of a registered nurse to practice in a manner consistent with the public health,  
24 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

25       "(a) Assaultive or abusive conduct including, but not limited to, those violations listed in  
26 subdivision (d) of Penal Code Section 11160.

27       "(b) Failure to comply with any mandatory reporting requirements.

28       "(c) Theft, dishonesty, fraud, or deceit.

1       “(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the  
2 Penal Code.”

3       11. California Code of Regulations, title 16, section 1445 states:

4       “(a) When considering the denial of a license under Section 480 of the code, the board, in  
5 evaluating the rehabilitation of the applicant and his/her present eligibility for a license will  
6 consider the following criteria:

7               “(1) The nature and severity of the act(s) or crime(s) under consideration as grounds  
8 for denial.

9               “(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under  
10 consideration as grounds for denial which also could be considered as grounds for denial under  
11 Section 480 of the code.

12               “(3) The time that has elapsed since commission of the act(s) or crime(s) referred to  
13 in subdivision (1) or (2).

14               “(4) The extent to which the applicant has complied with any terms of parole,  
15 probation, restitution, or any other sanctions lawfully imposed against the applicant.

16               “(5) Evidence, if any, of rehabilitation submitted by the applicant. . . .”

17               **FIRST CAUSE FOR DENIAL OF APPLICATION**

18               **(May 18, 2009 Criminal Conviction for DUI on February 13, 2009)**

19       12. Respondent's application is subject to denial under Code section 480, subdivisions  
20 (a)(1), and section 2761, subdivision (f), in that she was convicted of an offense that is  
21 substantially related to the qualifications, duties, and functions of a registered nurse and which, if  
22 done by a licentiate of the business or profession in question, would be grounds for suspension or  
23 revocation of her license. The circumstances are as follows:

24               a. On or about May 18, 2009, in criminal proceeding entitled *People of the*  
25 *State of California v. Amy Gaddis*, in San Bernardino Superior Court, case number TVI900868,  
26 Respondent was convicted on her plea of nolo contendere to violating Vehicle Code section  
27 23152, subdivision (b), driving with a blood alcohol concentration (BAC) of .08 or more, a  
28 misdemeanor.

1           b. As a result of the conviction, on or about May 18, 2009, Respondent was  
2 sentenced to three years informal probation, a 3 month first time offender alcohol program, one  
3 day in jail (with credit for one day served), and to pay fines and fees in the amount of \$1,858.00.

4           c. The facts that led to the conviction are that on February 13, 2009, Respondent  
5 was out celebrating a birthday with several friends. The police pulled her over on the drive home  
6 because she was swerving from side to side. When she was pulled over, the police officer could  
7 smell alcohol on her breath and she had red and watery eyes. Respondent admitted to the police  
8 that she had consumed 5 mixed drinks that night and failed the field sobriety test. Respondent  
9 was arrested and was taken to jail. A blood test reflected a blood alcohol level of .15%.

10                           **SECOND CAUSE FOR DENIAL OF APPLICATION**

11                   **(Unprofessional Conduct - Dangerous Use of Alcohol on February 13, 2009)**

12           13. Respondent's application is subject to denial under Code section 480, subdivisions (a)  
13 and (3)(A), and section 2762, subdivision (b), in that on February 13, 2009, Respondent used  
14 alcoholic beverages to an extent or in a manner that was dangerous and injurious to herself and  
15 the public when she operated a motor vehicle while under the influence of alcohol, as detailed in  
16 paragraph 12 above.

17                           **THIRD CAUSE FOR DENIAL OF APPLICATION**

18                   **(Unprofessional Conduct - Conviction of Alcohol-Related Offense)**

19           14. Respondent's application is subject to denial under Code section 480, subdivisions (a)  
20 and (3)(A), and section 2762, subdivision (c), in that on May 18, 2009, Respondent was convicted  
21 of a criminal offense involving the consumption of alcohol as detailed in paragraph 12, above.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
3 and that following the hearing, the Board of Registered Nursing issue a decision:

- 4 1. Denying the application of Amy Gaddis for a registered nurse license;  
5 2. Taking such other and further action as deemed necessary and proper.

6 DATED: 8-15-11

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8 LOUISE R. BAILEY, M.ED., RN  
9 Executive Officer  
10 Board of Registered Nursing  
11 Department of Consumer Affairs  
12 State of California  
13 Complainant

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